

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 41674 of 2014

Arising Out of Case No.- C1 1130 Year-2012 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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1. Shriram Transport Finance Company Ltd. Having its registered office at 3rd Floor, Mookambika Complex No. 4, Lady Desika Road, Mylapore, Chennai, Tamil Nadu and corporate office at Wookhardt Towers, Level- 3, C-2 Block, Bandra Kurla Complex, Bandra (East), Mumbai, Maharashtra through its credit manager Sushil Kumar, S/o Shri Braj Bhushan Singh r/o 6B, Yamuna Apartment, RMS Colony, Kankarbagh, P.S. Kankarbagh, District- Patna.

2. Indubhushan Kunwor, S/o Shri Mahendra Kunwor, r/o Dumri, P.S. Patory, District- Samastipur.

3. Sushant Kumar Singh, S/o Shri Krishna Kumar Singh, r/o c/o Deepak Kumar Salimpur Ahra, Near Brindawan Nursing Home, Exhibition Road, P.S. Gandhi Maidan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar

2. Chandrashekhar Singh, S/o Shivchandra Singh, r/o Khilwat, P.S. Bidupur, District- Vaishali.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Patanjali Rishi, Advocate

For the State : Mr. Parmeshwar Mehta, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 28-01-2019

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. Despite opposite party no. 2 having entered appearance and name of learned counsel appearing in the cause list, there was no representation on his behalf when the matter was taken up and heard.



3. A counter affidavit has also been filed on behalf of opposite party no. 2.

4. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973 for the following relief:

“That the petitioners above named pray for quashing of order of cognizance dated 15/03/2013 passed in CI 1130 of 2012 arising out of Industrial Area P.S. Case No. 58/2010 by Smt. Noor Sultana, Judicial Magistrate, First Class, Hajipur (Vaishali) thereby taking cognizance against the petitioners above named and for offences under Sections 420 and 34 of the Indian Penal Code.”

5. The allegation against the petitioners is of fraudulently demanding an amount of Rs. 4,16,000/- for the vehicle which was purchased by the opposite party no. 2 from the petitioners instead of the amount being Rs. 2,62,000/-.

6. Learned counsel for the petitioners submitted that from the plain reading of the complaint, it would be clear that the matter is purely civil in nature as a dispute is with regard to the amount for which the vehicle was sold to the opposite party no. 2. It was submitted that from the agreement with regard to loan-cum-hypothecation, which was entered into between the petitioner no. 1 and the opposite party no. 2, there was no mentioning with regard to the amount and even if it is taken that the dues were Rs. 2,62,000/- as on 31.12.2009, the agreement entered into on



03.09.2010, would obviously mean that there would have been addition of the interest component. It was further submitted that the opposite party no. 2 defaulted in making the scheduled monthly repayments and, thus, the amount escalated and to wriggle out of the liability to pay the genuine amount to the petitioners, a false case has been instituted. Learned counsel submitted that the statement of accounts relating to the agreement between the opposite party no. 2 and the petitioner no. 1 discloses that till April, 2014, the amount due and payable was over Rs. 10 Lakhs. For such contention, learned counsel has drawn the attention of the Court to Annexures P/4 and P/5, of the reply of the petitioners to the counter affidavit on behalf of opposite party no. 2, which are copies of the loan-cum-hypothecation agreement and the statement of accounts.

7. Learned A.P.P. submitted that the allegation relates to dispute of the amount which the opposite party no. 2 claims to have been disclosed to him at the time of taking the vehicle. However, on a direct query of the Court as to whether any criminal aspect was reflected, learned A.P.P. was not in a position to demonstrate the same.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court



finds that a case for interference has been made out. From the entire reading of the compliant/F.I.R., it is apparent that the grievance of the opposite party no. 2 is only with regard to the amount for which the vehicle was bought by him from the petitioners. The same was pursuant to a signed agreement between the parties and the dispute was also amenable to arbitration. Moreover, it is a purely money transaction between the parties and disputes arising out of pure money transactions are to be sorted out in a civil proceeding but clearly criminal proceeding would be an abuse of the process of the Court.

9. For reasons aforesaid, the application is allowed. The entire criminal proceeding of CI 1130 of 2012 arising out of Hajipur Industrial Area P.S. Case No. 58 of 2010 as well as the order taking cognizance dated 15.03.2013, as far as it relates to the petitioners, stand quashed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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